

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

James Robert Pope, Sr., and Pauline M.
Chatfield,

Case No. 19-cv-0126 (DSD/HB)

Plaintiffs,

REPORT AND RECOMMENDATION

v.

Phil Buhler, Mayor of the City of
Butterfield; Karen Buhler, Wife of Mayor;
Leslie Heffele, Clerk for City of
Butterfield and Liquor Store; City Council
Members; Ken Nelson; Harry Jenness,
County Inspector; Clerk of Municipal
Liquor Store, Butterfield; City Building
Inspector; Barry Gulder, Deputy Sheriff
for Watonwan County; and Each of City
of Butterfield, Names Unknown,

Defendants.

Plaintiffs Robert Pope, Sr., and Pauline M. Chatfield did not pay the filing fee for this action, instead applying for *in forma pauperis* (“IFP”) status. In an Order dated March 6, 2019, this Court explained that although Plaintiffs qualified financially for IFP status, their complaint suffered from at least two critical deficiencies: (1) the claim central to the litigation—selective enforcement of regulations by officials of the City of Butterfield—had not been adequately pleaded; and (2) the remaining claims were by all indications precluded by the *Rooker-Feldman* doctrine.¹ (Order at 3–4 [Doc. No. 5].)

¹ See *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983); *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923).

Rather than recommend dismissal of the complaint at that time pursuant to 28 U.S.C. § 1915(e)(2)(B), this Court afforded Plaintiffs an opportunity to file an amended complaint clarifying their claims and avoiding the deficiencies mentioned above. After the original deadline set by this Court to file an amended complaint expired, Plaintiffs asked for additional time, and the Court granted the request. (*See* Order at 1 [Doc. No. 7].) The Court's amended deadline of April 29, 2019, has now also expired with no amended complaint or further communication to the Court from Plaintiffs. Accordingly, in accordance with the Order of March 6, 2019, this Court now recommends dismissal of this action without prejudice for the reasons set forth in that Order.

Based on the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that:

1. This matter be **DISMISSED WITHOUT PREJUDICE** pursuant to 28 U.S.C. § 1915(e)(2)(B).
2. Plaintiffs Robert Pope, Sr., and Pauline M. Chatfield's application to proceed *in forma pauperis* [Doc. No. 2] be **DENIED**.

Dated: May 8, 2019

s/ Hildy Bowbeer
Hildy Bowbeer
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).